SBCivil Writ Petition No.2704/2003

Gajendra Singh Shekhawat
v.
The Jodhpur Vidhyut Vitaran Nigam Ltd. & Ors.

Date of Order :: 29th May, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.S.Bhati, for the petitioner.
Mr. R.S.Saluja, for the respondents.

....

The instant petition for writ is preferred by the petitioner alleging that the respondents No.1 and 2 are proceeding to disconnect the electric connection in continuation to notice dated 18.4.2003 since the licence fee to the respondent No.3 has not been paid by the petitioner. It is also stated that the action to remove the electricity connection could not be taken as no dues are outstanding against the petitioner towards the respondents No.1 and 2.

This Court while issuing notice to show cause to the respondents by order dated 6.6.2003 restrained the respondents No.1 and 2 from disconnecting the electricity connection of the petitioner provided he deposits electricity dues, if any.

A reply to the writ petition has been filed on behalf of the respondents No.1 and 2 stating therein that the notice dated 28.4.2003 was given to the petitioner for disconnection of the electricity as

the same was availed by the petitioner at an unauthorised Dairy Booth. The petitioner never responded in pursuant to the notice dated 28.4.2003 and also without disclosing this fact and by misrepresentation of facts approached this Court under Article 226 of the Constitution of India. It is also averred in reply to the writ petition that the Chief Executive Officer, Municipal Corporation, Jodhpur by communication dated 15.2.2003 informed them that the petitioner has not deposited licence fee since August, 2002.

No rejoinder has been filed on behalf of the petitioner in rebuttal to the averments contained in reply to the writ petition.

From perusal of the notice dated 28.4.2003 it is apparent that the respondent No.2 was proceeding to disconnect the electricity connection in pursuant to a list given by the respondent No.3 consisting the approved Dairy Booths against whom licence fee was due. In the said list the booth wherefrom the electricity connection is sought to be disconnected is shown at serial No.54. The petitioner has not been shown in the list aforesaid dated 15.2.2003 as a person having unauthorised booth but a person who has not deposited licence fee with the Municipal Corporation since August, 2002. The Corporation could have taken appropriate action for recovery of due

licence fee or even for cancelling the licence but instead of taking any appropriate legal action the Corporation made a request to the respondents No.1 and 2 to disconnect electricity that is highly unreasonable. It was not at all open for the respondents No.1 and 2 to disconnect electricity connection of the petitioner by treating the Dairy Booth an unauthorised one.

Accordingly, this petition for writ is disposed of with a direction to the respondents to continue the electricity connection at the premises in dispute. The petitioner is also directed to satisfy the licence fee due with the Corporation within three months from today, if not already deposited.

( GOVIND MATHUR ),J.

kkm/ps.